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Via fax 916-464-4780 and Fed Ex Delivery

California Central Water Quality Control Board  
Central Valley Region  
Attn: Mark List  
11020 Sun Center Drive  
Rancho Cordova, CA 95670

re: Notice of Draft Connection Restriction City of Lakeport  
1930 South Main Street, Lakeport, Victorian Village Subdivision  
Public Hearing of March 15/16, 2007

To whom it may concern:

I am the attorney for Victorian Village Investments Inc., owners of real property located at 1930 South Main Street, Lakeport, California. Victorian Village Investments Inc. is the owner of several acres in the City of Lakeport and is potentially affected by the Cease and Desist Order Which Will Be the Subject of the March 15/16, 2007 Meeting before the California Regional Water Quality Control Board, Central Valley Region. My client, through its president, William S. Irwin wishes to be a designated party.

My client owns real property where an approved common interest development is located. On November 16, 2006 a subdivision map for the initial phase of the development was recorded. In total, the development anticipates 95 units. The first phase of the development provides for 14 develop able lots along with common interest area and roadway. As of January 18, 2007, no building permits have been issued for the residential structures to be erected on the First Phase of the subdivision. Pages 39-41 are attached to this letter showing the recording of said map on the date specified herein.

That would at first blush, the above-stated facts on their own would appear to take this project outside of the 4 exceptions specified in your correspondence to the city dated January 18, 2007 accompanying the Notice of Draft Connection Restriction, City of Lakeport Municipal

Sewer District, City of Lakeport Wastewater Treatment Facility, Lake County. However, under the circumstances particular to my client, we would contend that the order should not affect its project.

Water Code Section 13301 provides in part, "When a regional board finds ... (The) board may ... (c) in the event of a threatened violation, take appropriate remedial or preventive action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, **cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to that system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order.** (emphasis added) Cease and desist orders may be issued directly by a board, after notice and hearing.

The plain reading of Water Code Section 13301 is clear that it does not apply to dischargers who did discharge into the system prior to the issuance of the cease and desist order. In the present case, my client, Victorian Village Investments Inc. clearly meets the definition of a **prior and current discharger** (emphasis added). At the time my client and its immediate predecessor in interest acquired the real property, there were already approved and utilized wastewater connections in excess of the amount my client intends to utilize. There has been discharge through my client's sewer connections for periods of time through the last three decades.

Those sewer connections had been paid for and used for a period of time prior to my client's acquisition. At the time of those connections, there was a RUE rating in excess of the amount my client intends to utilize.

California Code of Regulations Title 23, Section 2244, states that ... "e) Prohibitions or restrictions, when adopted should include but not be limited to new residential, commercial, industrial, and/or governmental connections as deemed appropriate."

In the present case, my client contends that any use it may make of existing connections to new residential construction is beyond the scope of the current order. The predecessor in interest who initially developed the property, acquired permits, sought, and received approval for connections, in excess of the amount my client intends to utilize, all of which were previously put into service. Attached to this letter is a copy of but a portion of the official account history reports generated by the City of Lakeport related to the previous owner of the real property Westshore RV Resort, indicating that water and sewer had been connected at that time. My client intends to construct homes on the same property originally occupied by the recreational vehicle park, and with a less total connections. Although permits are being taken out for new construction, this is a situation which is more akin to a remodel at least from the standpoint of impact on the total connections available within the City of Lakeport. The RV facility took out